

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

NOBLE DREW ALI, #1354840
(a.k.a. JOSEPH LEE MCELVEEN BEY),

Petitioner,

v.

CIVIL ACTION NO. 2:17cv340

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss the Petition. In his Petition, the pro se Petitioner alleges violations of his constitutional rights in relation to his conviction in the Prince William County Circuit Court for Statutory Burglary. As a result, the Petitioner was sentenced on May 7, 2015, to serve a total of six (6) years and six (6) months in prison.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed April 17, 2018, recommends dismissal of the

Petition with prejudice. On April 30, 2018, the Petitioner timely filed objections to the Report and Recommendation. The Respondent filed his response to the Report and Recommendation on May 2, 2018, which response clarifies the issues discussed in footnote 10 of the Report and Recommendation, and requires no further discussion here.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed April 17, 2018. It is, therefore, ORDERED that the Respondent's Motion to Dismiss, ECF No. 12, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further ORDERED that judgment be entered in favor of the Respondent. With regard to Petitioner's Motion for Leave, ECF No. 42, it is **DENIED AS MOOT**.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk is DIRECTED to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so ORDERED.

Mark S. Davis
United States District Judge

MARK S. DAVIS

UNITED STATES DISTRICT JUDGE

May 22, 2018